

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

LEON BENSON and KOLLEEN	)	CASE NO. 1:24-cv-00839 JPH-MJD
BUNCH,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
CITY OF INDIANAPOLIS, ALAN F.	)	
JONES, LESLIE VANBUSKIRK,	)	
STEVEN GARNER, ELI MCALLISTER,	)	
and COLUMBUS RICKS, in their	)	
individual capacities,	)	
	)	
Defendants.	)	

**Defendants' Joint Motion For Leave to Amend Their Answer and Defenses**

Defendants City of Indianapolis, Leslie VanBuskirk, Steven Garner, Eli McAlister, and Columbus Ricks, by counsel, and Defendant Alan Jones, by counsel, file their Motion for Leave to Amend Their Answer and Defenses and, in support thereof, states as follows:

1. On May 20, 2024, Plaintiff filed the Complaint in this matter. (Dkt. No. 1.)
2. On July 31, 2024, Defendants, City of Indianapolis, Leslie VanBuskirk, Steven Garner, Eli McAlister, and Columbus Ricks, filed their Answer and Defenses. (ECF No. 32.)
3. On August 30, 2024, Defendant Alan Jones filed his Answer and Defenses. (ECF No. 35.)
4. On September 5, 2024, this Court entered the Case Management Plan. (ECF No. 38.) That Case Management Plan set a deadline of October 25, 2024 for “[a]ll motions for leave to amend the pleadings....” (ECF No. 38 at 3 [III(D)].) That deadline has not passed.
5. Federal Rule of Civil Procedure 15 governs amendments to the pleadings. That Rule states, in relevant part, that “a party may amend its pleading only with the opposing party’s written

consent or the court's leave." Fed. R. Civ. P. 15(a)(2). "The court should freely give leave when justice so requires." *Id.*

6. Here, justice requires amendment. Since the filing of the Answers, counsel have had additional time to investigate the case, serve subpoenas on nonparty and attempt to locate witnesses. This investigation has uncovered that several critical witnesses have *died*, that other witnesses are missing entirely, and that that files have gone missing. This investigation has led to the assertion of a new affirmative defense.

7. That affirmative defense has been included in the Draft Answers for Defendants, City of Indianapolis, Leslie VanBuskirk, Steven Garner, Eli McAlister, and Columbus Ricks (Exhibit A, attached) and Defendant Alan Jones (Exhibit B, attached). Otherwise, the parties have not altered their answers to the allegations in Plaintiff's Complaint.

8. Plaintiff will not be prejudiced by this amendment. Discovery is ongoing and Plaintiff will have ample opportunity to explore the basis of this defense. As a result, this Court should grant leave.

9. Plaintiff's counsel was contacted via email on October 25, 2025 regarding this Motion. Despite the fact that the agreed case management deadline of October 25, 2024 has not yet passed and discovery is ongoing, Plaintiffs' counsel has indicated that they object to this Motion.

WHEREFORE, Defendants, City of Indianapolis, Leslie VanBuskirk, Steven Garner, Eli McAlister, and Columbus Ricks, and Defendant Alan Jones respectfully request that this Court GRANT their Joint Motion For Leave to Amend their Answer and Defenses, permit the filing of the Amended Answers and Defenses attached hereto and grant all other just and proper relief in the premises.

Respectfully Submitted,

FROST BROWN TODD LLP

/s/ Alexander P. Will

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